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Claude Baudrenghien

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EXAMINER

O HERN, BRENT T

ART UNIT

PAPER NUMBER

1772

MAIL DATE

DELIVERY MODE

08/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/565,690	Applicant(s) BAUDRENGHIEN ET AL.	
	Examiner Brent T. O'Hern	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 16 July 2007 has been entered.

Claims

2. Claims 1-20 are pending.

WITHDRAWN REJECTIONS

3. The 35 U.S.C. 112, second paragraph rejections of claims 1-20 of record in the Office Action mailed 23 April 2007, page 3, paragraph 8 have been withdrawn due to Applicant's amendments in the Paper filed 16 July 2007.

4. The 35 U.S.C. 102(b) rejections of claims 1-6 and 9-15 as being anticipated by Sanders (US 4,709,399) of record in the Office Action mailed 23 April 2007, page 4, paragraph 9 have been withdrawn due to Applicant's amendments in the Paper filed 16 July 2007.

5. The 35 U.S.C. 103(a) rejections of claims 7 and 16-18 as being unpatentable over Sanders (US 4,709,399) in view of Kane, JR. et al. (US 2004/0173492) of record in the Office Action mailed 23 April 2007, page 7, paragraph 10 have been withdrawn due to Applicant's amendments in the Paper filed 16 July 2007.

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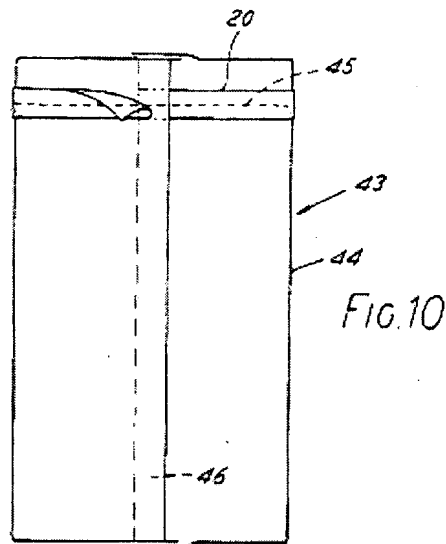
6. The 35 U.S.C. 103(a) rejections of claims 8 and 19-20 as being unpatentable over Sanders (US 4,709,399) in view of Cooley et al. (US 5,660,925) of record in the Office Action mailed 23 April 2007, page 8, paragraph 11 have been withdrawn due to Applicant's amendments in the Paper filed 16 July 2007.

NEW REJECTIONS

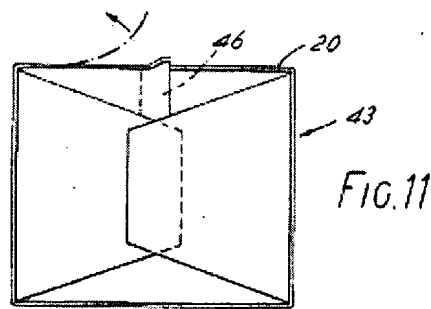
Claim Rejections - 35 USC § 102

7. Claims 1-6 and 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanders (US 4,709,399).

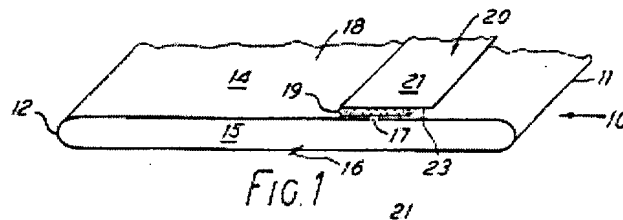
Regarding claims 1-2, Sanders ('399) teaches a sealable package comprising a flexible, air impervious envelope, having outer wall (See FIGs 10-11 and col. 7, ll. 4-22), wherein



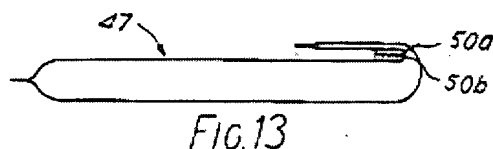
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portions of the outer wall form a slot through the outer wall and also form first and second lips on the outer wall adjacent the slot, having a length (See FIG-1, portions of wall forming slot with lips on each side of #17.) and



an adhesive strip positioned separately to close the slot in the outer wall along the entire length of the slot with a double seal formed along the outer wall of the envelope, (See FIG-1, tape #20 with adhesive #19 and FIGs 10-11 and col. 7, ll. 4-42 wherein the outer wall of the envelope has three seals, the first being the tape, #20, the second seal being #46 and the third seal being the end portions that are folded and sealed to another per FIG-11. Furthermore, see also FIG-13 wherein #50a is folded over #50b providing a double seal.), wherein the adhesive strip comprises two parallel adhesive faces (See FIG-1, top and bottom of #19.), and wherein



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a first of the parallel adhesive faces is completely covered with a first detachable protective strip prior to closing the slot (See FIG-1, strip #21 that is capable of being detached.), a second of the parallel adhesive faces comprises a first zone that is fixed to the outer wall of the envelope along and beyond the entire length of the first lip of the slot (See FIG-1, bottom side of #19 fixed to #14.) and a second zone that extends adjacent and beyond the slot and the second lip of the slot and along the entire length of the slot (See FIG-1, wherein #19 bridges #17.), and the second zone of the second face of the adhesive strip is covered with a second detachable protective strip prior to closing the slot (See FIG-10 wherein tape #20, a second strip, overlaps itself and FIG-7 wherein tape #20a is covered with a second strip. Furthermore, see FIG-23 and col. 9, ll. 28-32, multiple tabs #23d. Furthermore, see FIG-11 wherein #20 overlaps itself as it is wrapped around the packaged product.).

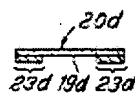
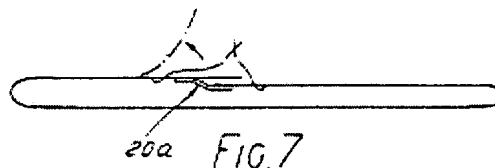


FIG. 23

The phrase "single use" in claim 1, line 1 is not given any patentable weight since Applicant is introducing **use** limitations into the product claims (see MPEP 2173 (q)).

The phrases "adapted, when sealed, to resist leakage of contents when subjected to a raised internal pressure over a range of temperatures so as to meet pertinent international and federal standards for shipping hazardous substances or

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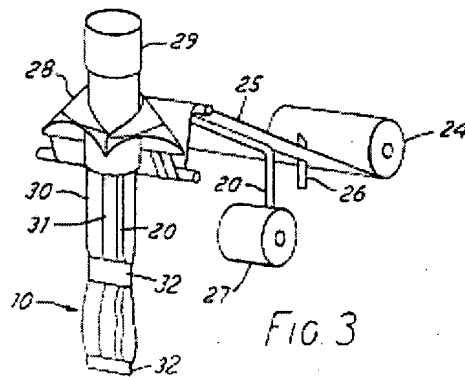
products therein by commercial air transport" in claim 1, lines 1-4 and "whereby the slot is adapted to be doubly sealed along its entire length on the outer wall of the envelope by, first, the first face of the adhesive strip and also, second, by the second face of the adhesive strip bonding to the outer wall of the envelope adjacent and beyond the end of the first face of the adhesive strip, when the package is filled, closed and sealed, and shipped" in claim 1, lines 22-25 do not limit the claim scope since said language **does not limit the claim to a particular structure** (See MPEP 2111.04).

Regarding claim 3, Sanders ('399) teaches a package wherein a length of the second zone of the second face of the adhesive strip is at least equal to a length of the first zone of the adhesive strip (See FIG-1, wherein the length of #19 is the same length on both sides of #17.).

Regarding claims 4 and 11-12, Sanders ('399) teaches a package wherein the slot is rectilinear (FIG-1, rectilinear slot #17).

Regarding claim 5, Sanders ('399) teaches a package wherein the slot is arranged close to a rectilinear edge of the envelope (FIG-1, #17 at edge of #14).

Regarding claims 6 and 13-15, Sanders ('399) teaches a package wherein the envelope is divided into a plurality of distinct pockets, each pocket communicating with a respective portion of the slot (FIGs 3 and 1, plurality of pockets inside of plurality of #10, with slot below #20. Furthermore, it is noted that multiplicity does not make the invention patentable over prior art with less than multiplicity.).



Regarding claim 9, Sanders ('399) teaches a method for the airtight packing of a product comprising the steps of:

providing a package (See FIGs 3 and 1, #10 and col. 4, ll. 47-60.);

inserting the product into the envelope, through the slot (col. 5, ll. 11-15);

removing the first protective strip covering the second zone of the adhesive strip and sealing the second zone is sealed on the second lip of the slot and onto the wall of the envelope (col. 4, ll. 39-46 and 15-26);

removing the second protective strip from the first face of the self adhesive strip (col.4, ll. 15-26 and FIGs 10-11, #43); and

folding the envelope back on itself along the slot, so that the stripped face of the self-adhesive strip is folded back on itself (See col. 7. ll. 4-22 and FIGs 10-11, #43.).

Claim Rejections - 35 USC § 103

8. Claims 7, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders (US 4,709,399) in view of Kane, JR. et al. (US 2004/0173492).

Sanders ('399) teaches a package discussed above, however, fails to expressly disclose wherein the envelope comprises at least one sheet comprising an outer layer of oriented polyamide and an inner polyethylene layer laminated to the outer layer.

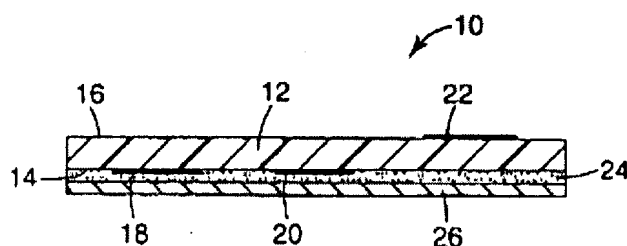
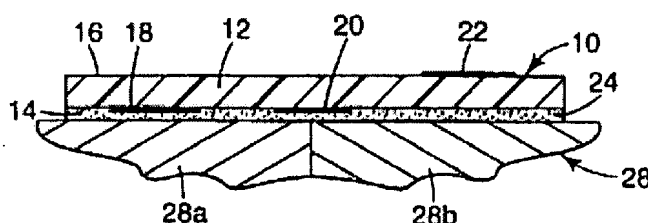
However, Kane ('492) teaches wherein the envelope comprises at least one sheet comprising an outer layer of oriented polyamide, laminated with an inner polyethylene layer (*paras. 58-59*) for the purpose of providing structure and barrier for the packaged goods (*paras. 57-59*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to provide an envelope comprising an oriented polyamide and polyethylene as taught by Kane ('492) in Sanders ('399) in order to provide structure and barrier for packaged goods.

9. Claims 8 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders (US 4,709,399) in view of Cooley et al. (US 5,660,925).

Sanders ('399) teaches a package having an adhesive strip covered on two sides with an adhesive (*FIG-10, tape #20 and FIG-7, #20a*), however, fails to expressly disclose wherein the adhesive strip comprises at least one sheet of synthetic olefin polymer, covered on two sides with a rubber based adhesive.

However, Cooley ('925) teaches an adhesive strip comprising at least one sheet in of synthetic olefin polymer, covered on two sides with a rubber based adhesive (See *col. 5, l. 64 to col. 6, l. 9, col. 6, ll. 42-53, col. 9, ll. 62-63 and FIGs 1 and 2, wherein label #10 with olefin film #12 having rubber based adhesive #24 backing joins components #28a and #28b.*) for the purpose of providing an adhesive that is tacky at room temperature, can be adhered to a surface by application of a light pressure and is tamper-indicating (See *col. 5, l. 64 to col. 6, l. 5 and col. 6, ll. 42-45.*).

**Fig. 1****Fig. 2**

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to provide the above adhesive strip as taught by Cooley ('925) in Sanders ('399) in order to provide an adhesive that is tacky at room temperature and can be adhered to a surface by application of a light pressure.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders (US 4,709,399).

Sanders ('399) teaches the method discussed above, however, fails to expressly disclose wherein a relative pressure of at least 0.95 bar and a temperature in the range of -40 °C to 55 °C exists inside the package after packing without losing product outside the envelope.

However, it would have been obvious to one having ordinary skill in the art that said conditions are well known to exist in a typical atmosphere setting where said method is carried out.

ANSWERS TO APPLICANT'S ARGUMENTS

11. In response to Applicant's arguments (*p. 9, para. 5 to p. 10, para. 1 of Applicant's Paper filed 16 July 2007*) that Sanders ('399) does not teach a "single-use package", it is noted as discussed above that said phrase is not given any patentable weight since it is directed towards an intended use.

12. In response to Applicant's arguments (*p. 10, para. 1 and in the subsequent paragraphs of Applicant's Paper filed 16 July 2007*) regarding IATA and US DOT, it is noted as discussed above that said language does not limit the claim scope since said language **does not limit the claim to a particular structure** (*See MPEP 2111.04*).

Furthermore, the mere passing of any certification test does not impart any structure to the claims without positively setting forth structural limitations.

13. In response to Applicant's arguments (*p. 10, para. 2 to p. 11, para. 1 of Applicant's Paper filed 16 July 2007*) that Sanders ('399) does not teach the double seal as claimed, it is noted as discussed above that Sanders ('399) teaches wherein the outer wall of the envelope has three seals, the first being the tape, #20, the second seal being #46 and the third seal being the end portions that are folded and sealed to another per FIG-11 (*See FIGs 10-11 and col. 7, ll. 4-42.*). Furthermore, see also FIG-13 wherein #50a is folded over #50b providing a double seal.

14. In response to Applicant's arguments (*p. 11, para. 2 to p. 13, para. 4 of Applicant's Paper filed 16 July 2007*) that Sanders ('399) does not teach the release paper in the various claims, it is noted that whether or not a substrate is easily or more difficult to separate from an adhesive does not make said substrate non-releasable. Furthermore, it is noted that Applicant has not claimed any particular degree of bondage

between the adhesive material and the substrate. The specific location of the strips is discussed above in the claims.

15. In response to Applicant's arguments (*p. 13, para. 5 to p. 14, para. 2 of Applicant's Paper filed 16 July 2007*) that Kane ('492) is a menu disclosure, it is noted that Applicant has not presented any precise arguments to support said conclusion.

16. In response to Applicant's arguments (*p. 14, paras. 3-4 of Applicant's Paper filed 16 July 2007*) that Cooley ('925) is a menu disclosure, it is noted that Applicant has not presented any precise arguments to support said conclusion.

17. In response to Applicant's arguments (*p. 15, paras. 1-4 of Applicant's Paper filed 16 July 2007*), it is noted that said issues are discussed above either with the claims or in the preceding paragraphs.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571) 272-0496. The examiner can normally be reached on M-Th, 9:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Brent T O'Hern
Examiner
Art Unit 1772
August 15, 2007



NASSER AHMAD
PRIMARY EXAMINER